

**DEPARTMENT OF STATE REVENUE
REVENUE RULING # FIT 96-02**

SEPTEMBER 18, 1996

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

Financial Institutions Tax - Indiana Code 6-5.5-1-17

Clarification of whether the taxpayer is taxable for purposes of the Financial Institutions Tax is required.

STATEMENT OF FACTS

The taxpayer was incorporated in the State of Delaware on December 4, 1986. It is headquartered in New York City and has branch offices in London and Hong Kong. It engages in a wide range of trading activities which include interest rate swaps and options and foreign exchange products. Its investment activities include leveraged lease transactions, loan participations, and other investments which are long term in nature. The Indiana business consists of leasing manufacturing equipment in Richmond and Jeffersonville. These are leveraged leases and treated as true operating leases for federal income tax purposes.

It is a subsidiary of a foreign bank. Based on information obtained from the Federal Reserve Board, the foreign bank (parent company) operates as a state branch in New York.

DISCUSSION

The financial institutions tax is addressed by Title 6 Article 5.5 of the Indiana Code. In accordance with Indiana Code 6-5.5-1-17, taxpayer is defined as:

"Taxpayer" means a corporation that is transacting the business of a financial institution in Indiana, including any of the following:

- (1) A holding company.
- (2) A regulated financial corporation.
- (3) A subsidiary of a holding company or regulated financial corporation.
- (4) Any other corporation organized under the laws of the United States, this state, another taxing jurisdiction, or a foreign government that is carrying on the business of a financial institution.

The taxpayer is a corporation. Therefore, the next criteria to establish is whether it is transacting the business of a financial institution in Indiana.

Under Indiana Code 6-5.5-1-17 (d) (1) transacting the business of a financial institution is defined to include the activities of a subsidiary of a regulated financial institution that are authorized by federal or state law. The parent company meets the definition of a regulated financial institution contained in Indiana Code 6-5.5-1-17 (c) (7) because it operates as a state branch in the State of New York. Therefore, the taxpayer is a subsidiary of a regulated financial institution. For purposes of this ruling, it is assumed the taxpayer's activities are authorized by law.

RULING

Based on the forgoing, the Department rules taxpayer must file under the provisions of the Financial Institutions Tax.

CAVEAT

This ruling is issued to the taxpayer requesting it on the assumption that the taxpayer's facts and circumstances, as stated herein, are correct. If the facts and circumstances given are not correct, or if they change, the taxpayer requesting this ruling may not rely on it. However, other taxpayers with substantially identical factual situations may rely on this ruling for informational purposes in preparing returns and making tax decisions. If a taxpayer relies on this ruling and the Department discovers, upon examination, that the fact situation of the taxpayer is different in any material respect from the facts and circumstances given in this ruling, the ruling will not afford the taxpayer any protection. It should be noted that subsequent to the publication of this ruling, a change in statute, a regulation, or case law could void the ruling. If this occurs, the ruling will not afford the taxpayer any protection.

Indiana Department of Revenue